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CANTOR COLBURN LLP - BELLSOUTH			MIRZADEGAN, SAEED S	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/719,471	<b>Applicant(s)</b> HUSLAK ET AL.
	<b>Examiner</b> SAEED S. MIRZADEGAN	<b>Art Unit</b> 2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2007.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6,9-11 and 14-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,9-11 and 14-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date, _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>11/08/2007,06/14/2007</u>	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 11/08/2007 is in compliance with the provisions of 37 CFR 1.97 except for the strike-out items. Accordingly, the information disclosure statement is being considered by the examiner except for the strike-out NPL items. The items provided by the applicant and not considered by The Examiner are either eligible or irrelevant.

### ***Response to Amendment***

2. This office action is in response to Applicant's amendment filed 12/10/2007.
3. Claims 1-6, 9-11 and 14-25 are pending.
4. Applicant's Amendments with respect to Specification have been fully considered and are persuasive. The Objections to the Specifications have been withdrawn.
5. Applicant's amendments with respect to objections to claims 1, 2, 4, 6, 15-17 have been fully considered and are persuasive. The objections to claims 1, 2, 4, 6, 15-17 have been withdrawn.
6. Applicant's amendment with respect to 35 U.S.C. 112, 2<sup>nd</sup> rejection of claim 16 has been fully considered and is persuasive. The 35 U.S.C. 112, 2<sup>nd</sup> rejection of claim 16 has been withdrawn.
7. Applicant's arguments with respect to claims 21-25 have been fully considered but are moot in view of the following ground(s) of rejection.
8. Applicant's arguments with respect to claims 1-6, 9-11, 14-20 have been fully considered but they are not deemed fully persuasive.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. **Claims 21-25** are rejected under 35 U.S.C. 102(a) as being anticipated by DSL Forum "DSL Evolution-Architecture Requirements for the Support of QoS-Enabled IP Services, Proposed Draft PD-00X Revision 1", hereafter referred to as "PD-00X".

10. Regarding **Claim 21** PD00X discloses a computer program product providing a network turbo boost service, the computer program product comprising: a storage medium readable by a processing circuit and storing instructions for execution by the processing circuit for facilitating a method comprising:

- a. receiving a set of one or more available network turbo boost triggering options (**page 35, C.1.1, lines 6-10**) when subscriber connects to their current service provider, they are provided with a tool to help them manage their connection. This application will also contain a button marked "Turbo Mode".
- b. Where the set of one or more available network turbo boost triggering options include destination addresses for which high speed transfer will be recommended, and one of being notified when a large incoming file is detected, being notified when a large outgoing file is detected, being notified when a

destination address is on a list of high transmission rate applications, and being notified when a request is received from an application that typically requires downloading of application code data , where the application that typically requires downloading of application code data includes service packs, and software updates, where the list of high transmission rate applications includes video conferencing sites and gaming sites, and where the destination addresses include a gaming application address and a video conferencing address (**page 2, lines 37-41) changing the bandwidth based on the application or the destination selected (page 3, lines 40-46) services supported include, Interactive gaming and video on demand and multicast audio and video media applications;**

c. offering the available network turbo boost triggering options to a user (**page 35, C.1.1, line 10) This application will also contain a button marked “Turbo Mode”.**

d. detecting selection of a network turbo boost triggering option by the user (**page 35, C.1.1, lines 9-10) pressing the turbo boost button will signal the network to change the subscribers bandwidth ; and**

e. communicating the selection of the network turbo boost triggering option to a network service provider system (**page 35, C.1.1, lines 9-10) the change in the bandwidth which is accomplished by shaping the subscribers traffic profile due to pressing the turbo boost button is pushed to service provider, (page 35, C.1.1, lines 15-18) the turbo button could also be on the**

**service provider's webpage which allows the offer and detection and the communication to be done directly via the service provider.**

11. Regarding **Claim 22** PD00X discloses, the offering the available network turbo boost triggering options to a user is performed via a graphical user interface (**page 35, C.1.1, line 9**) **the application will also contain a button marked turbo mode.**

12. Regarding **Claim 23** PD00X discloses, the offering the available network turbo boost triggering options to a user is performed via a textual user interface (**page 35, C.1.1, lines 6-7**) **when subscribers connect to their current service provider, they are provided with a tool to help them manage their connection.**

13. Regarding **Claims 24** PD00X discloses, a computer program product for providing a network turbo boost service, the computer program product comprising: a storage medium readable by a processing circuit and storing instructions for execution by the processing circuit for facilitating a method comprising:

f. receiving a set of one or more available network turbo boost triggering options at a user system (**page 35, C.1.1, lines 6-7**) **when subscribers connect to their current service provider, they are provided with a tool to help them manage their connection;**

g. Where the set of one or more available network turbo boost triggering options include destination addresses for which high speed transfer will be

recommended, and one of being notified when a large incoming file is detected, being notified when a large outgoing file is detected, being notified when a destination address is on a list of high transmission rate applications, and being notified when a request is received from an application that typically requires downloading of application code data , where the application that typically requires downloading of application code data includes service packs, and software updates, where the list of high transmission rate applications includes video conferencing sites and gaming sites, and where the destination addresses include a gaming application address and a video conferencing address **(page 2, lines 37-41) changing the bandwidth based on the application or the destination selected, (page 3, lines 40-46) services supported include, Interactive gaming and video on demand and multicast audio and video media applications;**

h. Selecting one or more of the turbo boost triggering option **(page 35, C.1.1, lines 9-10) pressing the turbo boost button will signal the network to change the subscribers bandwidth ; and**

i. communicating the selection of the network turbo boost triggering options to a network service provider system **(page 35, C.1.1, lines 9-10) the change in the bandwidth which is accomplished by shaping the subscribers traffic profile due to pressing the turbo boost button is pushed to service provider, (page 35, C.1.1, lines 15-18) the turbo button could also be on the**

**service provider's webpage which allows the offer and detection and the communication to be done directly via the service provider.**

14. Regarding **Claims 25** PD00X discloses receiving is in response to a request from the user system (**page 35, C.1.1, lines 6-7**) when **subscribers connect to their current service provider, they are provided with a tool to help them manage their connection.**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

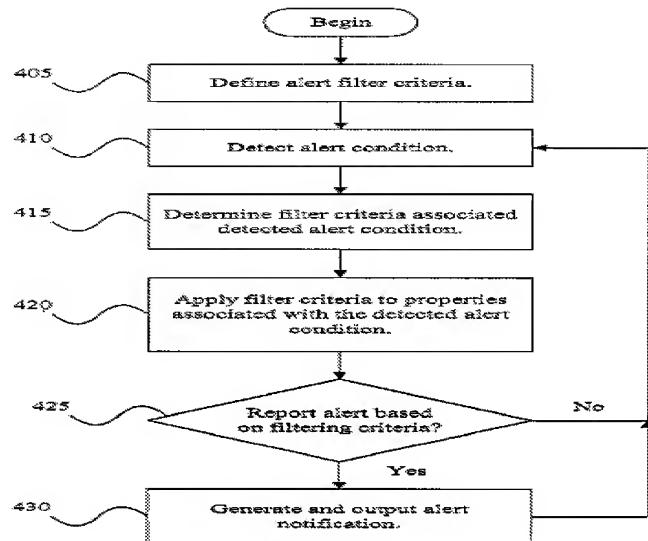
The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

15. **Claims 1-6, 9-11, 14-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinberg (US PG Pub No. 20030023722A1, hereafter referred to as "Vinberg") in view of PD-00X.

16. Regarding **Claim 1** Vinberg discloses a method of providing a network turbo boost service, the method comprising:

- j. receiving one or more triggering criteria associated with a user (**abstract line 2 & Fig 4 block 405, [0049] pages 4-5 defining alert filer criteria which is further associated to the user.**)
- k. monitoring a network for a task that meets at least one of the triggering criteria (**abstract line 2-3, Fig 4 block 410, [0050] page 5) identifying an alert condition.**
- l. if the monitoring results in locating a task that meets at least one of the triggering criteria (**analyzing the alert condition, abstract line 3-4, Fig 4 block 410, [0050-0051] page 5)**



**Figure 4**

17. However Vinberg does not explicitly teach,

- m. In a service provider system
- n. turbo boost triggering criteria
- o. automatically invoking by the service provider system the network turbo boost service for the task.

18. In the same field of endeavor, PD-00X teaches (**page 1, 1.1 Scope, line 2**)**one or more Service Providers, (page 2, line 39-40 and page 35 lines 8-10)** dynamically increasing the bandwidth by activating network turbo boost service through turbo boost button usage (activation of the turbo boost service by the user manually pressing the turbo boost button) (**page 3, lines 40-46**) the subscriber will automatically be provided by the Service Provider the variable bandwidth, both by on demand (“Turbo” button) and by application based on examining the network.

19. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications, Voice services, Interactive gaming and Variable bandwidth to name a few as suggested on page 3 of PD00X.

20. The benefit of combining Vinberg and PD-00X is that by providing the ability to adjust the bandwidth dynamically, a user or client with low initial bandwidth allocation is able to benefit from lower rates set by the SLA established by the service providers but still gain access to new services that are only functional for the users with high bandwidth.

Art Unit: 2144

21. Regarding **Claim 2**, Vinberg-PD00X disclose the invention substantially as claimed. However Vinberg does not explicitly teach, the at least one turbo boost triggering criteria includes at least one of:

- p. a network-based trigger;
- q. a user client-based trigger, and
- r. an application-based trigger

22. In the same field of endeavor PD00X teaches,

s. A network-based trigger (**page 2, lines 39-41 increased bandwidth is based on service provider.**

t. A user client-based trigger (**page 2, lines 39-41 increased bandwidth is based on turbo button.**

u. An application-based trigger (**page 2, lines 39-41 increased bandwidth is based on application.**

23. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to provide different means for triggering the turbo boost service.

24. The benefit of combining Vinberg and PD-00X is that by providing alternative means for the triggering the turbo boost service, the ability to provide variable bandwidth service to the subscriber is enhanced.

25. Regarding **Claim 3** Vinberg-PD00X disclose the invention substantially as claimed. However Vinberg does not explicitly teach, the network-based trigger includes at least one of: detecting an incoming file that is larger than a pro-selected size; and detecting a destination address that is on a list of high transmission rate applications.

26. In the same field of endeavor PD00X teaches (**C.1.3, Pages 35-36**) the **application service provider determines that higher bandwidth than allocated is required, indicating a large transaction is in process.**

27. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications, Voice services, Interactive gaming all of which require significantly large bandwidth.

28. The benefit of combining Vinberg and PD-00X is that the application of the turbo boost service is simplified by identifying applications that require high bandwidth due to transfer of large files.

29. Regarding **Claim 4** Vinberg-PD00X disclose the invention substantially as claimed. However Vinberg does not explicitly teach, the user client-based trigger includes at least one of: detecting that the user has requested the network turbo boost service;

detecting an outgoing file that is larger than a pre-selected size; and detecting a file transfer time that is larger than a pre-selected time.

30. In the same field of endeavor PD00X teaches (**page 35, C.1.1, lines 9-10**) **pressing the turbo boost button will signal the network to change the subscriber's bandwidth (C.1.3, Page35-36)** the application service provider determines that higher bandwidth than allocated is required which indicates a large transaction is in process.

31. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to provide the means for triggering the turbo boost service with manual turbo boost service request as well as one based on long file-transfer time due to the file size.

32. The benefit of combining Vinberg and PD-00X is that by providing the ability to select the turbo boost service manually as well as one based on the file size and the time it takes to transfer that file, the subscribers experience is enhanced since the subscriber now has additional flexibility and choices.

33. Regarding **Claim 5** Vinberg discloses:

v. the trigger includes detecting the network service request (**abstract lines 2-3, Fig 4 block 410, shown above on page 10, [0050] page 5**) identifying an alert condition. However Vinberg does not explicitly teach,

w. Requesting the network turbo boost service via an application

34. In the same field of endeavor PD-00X teaches, requesting the network turbo boost service via an application (**page 2, lines 39-41 increased bandwidth is based on application.**

35. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications, Voice services and interactive gaming.

36. The benefit of combining Vinberg and PD-00X is that by providing the ability to adjust the bandwidth dynamically, a user or client with low initial bandwidth allocation is able to benefit from lower rates set by the SLA established by the service providers but still gain access to new services that are only functional for the users with high bandwidth.

37. Regarding **Claim 6** Vinberg-PD00X disclose the invention substantially as claimed. However Vinberg does not explicitly teach,

x. the triggering criteria is created by at least one of the user and a service provider.

38. In the same field of endeavor PD00X teaches,

- y. a user created trigger (**page 2, lines 39-41**) **increased bandwidth is based on user.**
- z. a service provider created trigger (**page 2, lines 39-41**) **increased bandwidth is based on service provide.**

39. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications, Voice services, Interactive gaming and Variable bandwidth to name a few.

40. The benefit of combining Vinberg and PD-00X is that by providing the ability to adjust the bandwidth dynamically to a service provider as well as to a subscriber, the user or client with low initial bandwidth allocation is able to benefit from lower rates set by the SLA established by the service provider but still gain access to new services that are only functional for the users with high bandwidth.

41. Regarding **Claim 9** Vinberg-PD00X disclose the invention substantially as claimed. However Vinberg does not explicitly teach,

- aa. the user is an application program.

42. In the same field of endeavor PD00X teaches,  
bb. The user is an application program (**page 2, lines 39-41 increased bandwidth is based on application.**

43. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications.

44. The benefit of combining Vinberg and PD-00X is that by having the application adjust the bandwidth dynamically, a user or client with low initial bandwidth allocation is going to benefit from lower rates set by the SLA from service providers but still have access to new services that are only usable by the users with high bandwidths.

45. Regarding **Claim 10** Vinberg-PD00X disclose the invention substantially as claimed. However Vinberg does not explicitly teach,  
cc. the user is user client software.

46. In the same field of endeavor PD00X teaches,  
dd. The user is user client software (**page 2, lines 39-41 increased bandwidth is based on application.**

Art Unit: 2144

47. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications.

48. The benefit of combining Vinberg and PD-00X is that by having the application adjust the bandwidth dynamically, a user or client with low initial bandwidth allocation is going to benefit from lower rates set by the SLA from service providers but still have access to new services that are only usable by the users with high bandwidths.

49. Regarding **Claim 11** Vinberg-PD00X disclose the invention substantially as claimed. However Vinberg does not explicitly teach,

ee. the task includes at least one of accessing a website, downloading and uploading data, streaming audio content and streaming video content.

50. In the same field of endeavor PD00X teaches,

ff. the task includes at least one of accessing a website, downloading and uploading data, streaming audio content and - streaming video content. (**page 3, lines 41-46) supported services include multicast audio, video on demand, voice services, interactive gaming (C.1.1, page 35, line 5) downloading data (uploading of data is an inherent part of each of these services).**

51. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications.

52. The benefit of combining Vinberg and PD-00X is that subscribers' routine operations of accessing a website as well as uploading and downloading would be accommodated.

53. Regarding **Claim 14** Vinberg and PD00X disclose,  
gg. executing the task without the network turbo boost service if the user does not respond to the offer to invoke a network turbo boost service for the task within a pre-selected time interval (**as explained above for Claim 1, the network turbo boost service is invoked as the result of the users selection of the network turbo boost service; hence If the user does not make the network turbo boost selection, regardless of the length of time interval specified as per claim 14, the task will not get executed with the turbo boost service. Execution of the task without the network turbo boost service is an inherent default feature of any service provided by service providers).**

54. Regarding **Claims 15 & 20** Vinberg discloses a method and a computer program product providing a network turbo boost service, the method and computer program product comprising:

hh. receiving one or more triggering criteria associated with a user (**abstract lines 2 & Fig 4 block 405, shown above on page 10, [0049] pages 4-5**

**defining alert filer criteria which is further associated to the user.**

ii. monitoring a network for a task that meets at least one of the triggering criteria (**abstract lines 2-3, Fig 4 block 410, shown above on page 10, [0050] page 5) identifying an alert condition.**

jj. if the monitoring results in locating a task that meets at least one of the triggering criteria (**abstract lines 3-4, Fig 4 block 410, shown above on page 10, [0050-0051] page 5 analyzing the alert condition).**

kk. transmitting an offer to the user (**abstract lines 3-5, Fig 4 block 430, shown above on page 10, [0053] page 5) if the criteria is met, produce an output (offer) to the appropriate operator.**

ll. a computer program product (**page 1, [0011]**) **a computer program is disclosed.**

55. However Vinberg does not explicitly teach,

mm. turbo boost triggering criteria

nn. invoking the network turbo boost service for the task

oo. if the user responds to the offer by requesting that the network turbo boost service be invoked for the task.

56. In the same field of endeavor, PD-00X teaches (**page 2, lines 39-40 and page 35 lines 8-10**) **dynamically increasing the bandwidth by activating network turbo boost service through turbo boost button usage (activation of the turbo boost service by manually pressing the turbo boost button)**. PD-00X further teaches (**page 2, lines 39-41**) **requesting the turbo boost service by pressing the turbo boost button.**

57. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications, Voice services, Interactive gaming and Variable bandwidth to name a few.

58. The benefit of combining Vinberg and PD-00X is that by providing the ability to adjust the bandwidth dynamically, a user or client with low initial bandwidth allocation is able to benefit from lower rates set by the SLA established by the service providers but still gain access to new services that are only functional for the users with high bandwidth.

59. Regarding **Claim 16** Vinberg discloses a method of providing a network turbo boost service, the method comprising:

pp. receiving at least one triggering criteria associated with a user (**abstract line 2 & Fig 4 block 405, shown above on page 10, [0049] pages 4-5**)

**defining alert filer criteria which is further associated to the user.**

qq. monitoring a network for a task that meets at least one of the triggering criteria (**abstract lines 2-3, Fig 4 block 410, shown above on page 10, [0050] page 5 identifying an alert condition.**

rr. If the monitoring results in locating a task that meets at least one of the criteria then transmitting an offer to the user (**abstract lines 3-5, Fig 4 block 430, shown above on page 10, [0053] page 5**) if the criterion is met, produce an **output (offer) to the appropriate operator.**

ss. transmitting an offer to the user (**abstract lines 3-5, Fig 4 block 430, shown above on page 10, [0053] page 5**) if the criteria is met, produce an **output (offer) to the appropriate operator.**

60. However Vinberg does not explicitly teach,

tt. turbo boost automatic triggering criteria

uu. turbo boost offer triggering criteria

vv. invoke the network turbo boost service

ww. the turbo offer triggering criteria includes one of when a large incoming file is detected: when a large outgoing file is detected; when a destination address is

on a list of high transmission rate applications and when a request is received from an application that requires downloading of application code data

61. In the same field of endeavor,
  - xx. PD-00X teaches (**page 2, lines 39-41**) requesting the turbo boost service based on a service provider or application.
  - yy. PD-00X further teaches (**page 2, lines 39-41**) requesting the turbo boost service by pressing the turbo boost button.
  - zz. PD-00X further teaches (**page 2, lines 39-40 and page 35 lines 8-10**) dynamically increasing the bandwidth by activating network turbo boost service through turbo boost button usage (activation of the turbo boost service by manually pressing the turbo boost button).
  - aaa. PD-00X further teaches (**pages 35-36, C.1.3**) the turbo boost would happen automatically when the subscriber connects with a service provider, which requires that in order to deliver their service, the subscriber may need more bandwidth. Some services are supported via an implicit turbo button.
  - bbb. PD-00X further teaches (**page 2, lines 37-41**) changing the bandwidth based on the application or the destination selected (**page 3, lines 40-46**) services supported include, interactive gaming and video on demand and multicast audio and video media applications.

62. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications, Voice services, Interactive gaming and automatic bandwidth shaping.

63. The benefit of combining Vinberg and PD-00X is that by providing the ability to adjust the bandwidth dynamically, either by a manual means or automatically, a user or client with low initial bandwidth allocation is able to benefit from lower rates set by the SLA established by the service providers but still gain access to new services that are only functional for the users with high bandwidth.

64. Regarding **Claim 17** Vinberg discloses a system of providing a network turbo boost service, the method comprising:

ccc. receiving a one or more of a plurality of triggering criteria associated with a user (**abstract lines 2 & Fig 4 block 405, shown above on page 10, [0049] pages 4-5) defining alert filer criteria that is further associated to the user.**

ddd. monitoring a network for a task that meets at least one of the plurality of triggering criteria (**abstract lines 2-3, Fig 4 block 410, shown above on page 10, [0050] page 5) identifying an alert condition.**

eee. if the monitoring results in locating a task that meets at least one of the plurality of triggering criteria (**abstract lines 3-4, Fig 4 block 410, shown above on page 10, [0050-0051] page 5**) analyzing the alert condition.

fff. transmitting an offer to the user (**abstract lines 3-5, Fig 4 block 430, shown above on page 10, [0053] page 5**) if the criterion is met, produce an output (offer) to the appropriate operator.

65. However Vinberg do not explicitly teach,

ggg. turbo boost triggering criteria

hhh. invoking the network turbo boost service for the task if the user responds to the offer by requesting that the network turbo boost service be invoked for the task.

iii. a network

jjj. a service provider system in communication with the network

66. In the same field of endeavor,

kkk. PD-00X teaches (**page 2, lines 39-41**) requesting the turbo boost service based on a service provider or application).

lll. PD-00X further teaches (**page 2, lines 39-41**) requesting the turbo boost service by pressing the turbo boost button).

mmm. PD-00X further teaches (page 2, lines 39-40 and page 35 lines 8-10) **dynamically increasing the bandwidth by activating network turbo boost service through turbo boost button usage).**

nnn. PD-00X further teaches (page 3, lines 11-12) **a network and Service provider in communication with the network.**

67. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications, Voice services, Interactive gaming and Variable bandwidth to name a few.

68. The benefit of combining Vinberg and PD-00X is that by providing the ability to adjust the bandwidth dynamically, a user or client with low initial bandwidth allocation is going to benefit from lower rates set by the SLA from service providers but still have access to new services that are only usable by the users with high bandwidths.

69. Regarding **Claim 18** Vinberg and PD00X discloses the system of claim 17 and the network as explained above

70. Regarding **Claim 18** Vinberg-PD00X disclose the invention substantially as claimed. However Vinberg does not explicitly teach,  
ooo. the network is the Internet.

71. In the same field of endeavor PD00X teaches, the network is the Internet (**page 6 line 4) the network service provider (NSP) includes Internet service providers whom provide Internet access to subscribers.**

72. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications, Voice services, Interactive gaming which are some of the services available over the internet.

73. The benefit of combining Vinberg and PD-00X is that by providing the ability to adjust the bandwidth dynamically, a user or client with low initial bandwidth allocation is able to benefit from lower rates set by the SLA established by the service providers but still gain access to new services and to gain access to the resources available over the internet that are only functional for the users with high bandwidth.

74. Regarding **Claim 19** Vinberg and PD00X discloses the system of claim 17 and the network being the internet as explained above

75. However Vinberg does not explicitly teach,  
ppp. the network is a broadband network.

76. Regarding **Claim 19** PD00X teaches, the network is a broadband network, (page 6, line 1) a DSL network, which is a broadband network.

77. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine Vinberg and PD-00X to accommodate the new services available to the end users such as Multicast audio and video media applications, Video on demand applications, Voice services, Interactive gaming which are some of the services available over the internet via a broadband network. Broadband is one of the high bandwidth transports that are available to the subscriber being offered by the service providers.

78. The benefit of combining Vinberg and PD-00X is that by providing the ability to adjust the bandwidth dynamically, a user or client with low initial bandwidth allocation is able to benefit from lower rates set by the SLA established by the service providers but still gain access to new services and to gain access to the resources available over the internet that are only functional for the users with high bandwidth such as broadband.

***Response to Arguments***

79. Applicant's arguments filed on 12/10/2007 have been carefully considered but they are not deemed fully persuasive. However, because there exists the likelihood of future presentation of this argument, the Examiner thinks that it is prudent to address applicant's main point of contention. Applicant argues that :

A. PD00X does not teach either explicitly or inherently the set of turbo boost triggering options as recited in claim 21 lines 5-16 as well as in claim 24.

B. Vineberg is non-analogous art as it relates to claims 1-6, 9-11 & 14-20.

80. As to point A, the Examiner's position is that there does lay support within PD00X in rejecting claims 21 & 24. PD00X discloses (**page 2, lines 37-41 changing the bandwidth based on the application or the destination selected as turbo boost triggering options as well as (page 3, lines 40-46) services supported which include, Interactive gaming and video on demand and multicast audio and video media applications.**) Thus it is the Examiners position that the 35 USC 102 rejections are proper.

81. As to point B, the Examiner's position is that Vineberg is analogous so far as it is explicitly cited and used for providing the monitoring function within a network environment which is lacking from PD00X. In the same field of endeavor, PD00X

proposes methodology for delivering QoS-enabled applications to DSL subscribers from one or more Internet Service Provider System as evident from the Scope (**page 1, 1.1 Scope, line 2**). Thus Vineberg is analogous and combinable with PD00X. Thus the 103 rejections of claims 1-6, 9-11 & 14-20 are proper.

***The prior art of record***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buckman et al. (US PG Pub. No. 20020188732A1) teach, System and method for allocating bandwidth across a Network. Wong (US patent No. 7113479B2) teaches Aggregated rate control method and system. Krautkremer (US PG Pub No. 20030005112 A1) teaches, Methods, apparatuses and systems enabling a network services provider to deliver application performance management services.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2144

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAEED S. MIRZADEGAN whose telephone number is (571)270-3044. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. S. M./  
Examiner, Art Unit 2144

/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2144